

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 502  
Title 14, California Code of Regulations  
Re: Waterfowl, Migratory; American Coot; and  
Common Moorhen (Common Gallinule)

I. Date of Initial Statement of Reasons: April 23, 2004

II. Dates and Locations of Scheduled Hearings:

- |     |                     |           |                           |
|-----|---------------------|-----------|---------------------------|
| (a) | Notice Hearing:     | Date:     | June 25, 2004             |
|     |                     | Location: | Crescent City, California |
| (b) | Discussion Hearing: | Date:     | August 6, 2004            |
|     |                     | Location: | Bridgeport, California    |
| (c) | Adoption Hearing:   | Date:     | August 27, 2004           |
|     |                     | Location: | Morro Bay, California     |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Sections 355 and 356 of the Fish and Game Code authorize the Fish and Game Commission to annually adopt regulations pertaining to the hunting of migratory birds that conform with, or further restrict, the regulations prescribed by the U.S. Fish and Wildlife Service (Service) pursuant to the Migratory Bird Treaty Act. These regulations ensure the conservation of waterfowl while providing for their use. Each year states may make recommendations to change federal regulations to Flyway Councils, which may forward these to the Service. By early August, the Service establishes federal regulations.

The Service, through the analysis of waterfowl population survey and other data, may also initiate changes in federal regulations which will require changes in existing and proposed State regulations. Changes in federal regulations for season opening and closing dates, modifying zone boundaries, elimination or creation of special management areas, season length, and daily bag limits for migratory birds may occur. The Service establishes rules for "early season" hunting (waterfowl seasons that occur prior to October 1) in June of each year and establishes "late season" rules (waterfowl seasons that begin after October 1) in August of each year.

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. Eight changes are currently proposed for Section 502. All require Flyway Council and Service approval. The Department is anticipating the Service to follow the pintail interim harvest strategy which allows a one bird daily bag limit throughout the entire general duck season and that the Service will also continue to allow a 60-day canvasback season.

1. Modify the existing boundary in the Northeastern Zone to include Shasta Valley in the Northeastern Zone.

Criteria established by the U. S. Fish and Wildlife Service allow minor changes in zone boundaries once every five years. Minor changes are defined as being those that affect less than a county. In 1990 the Northeastern and Balance of State boundary was changed to include Shasta Valley (an interior mountain valley) in the Balance of State Zone. This proposal modifies the boundary to return Shasta Valley to the Northeastern Zone. The previous boundary adjustment was made to provide hunter opportunity for diving ducks (primarily canvasback and scaup) which had typically arrived later in the waterfowl hunting season. In 1991, the California Department of Fish and Game acquired and began development of Shasta Valley Wildlife Area that emphasized wetland management for dabbling ducks. Successful dabbling duck management on Shasta Valley Wildlife Area has encouraged private landowners to manage their lands in a similar fashion. Modification of the Northeastern Zone boundary will allow for more hunting opportunity for dabbling ducks. Effects on harvest are expected to be small because Shasta Valley is not a major waterfowl migration area.

2. Modify the duck season in the Northeastern Zone from a 105-day split (two segments) season to a 105-day continuous season.

The existing regulation established a split (two segments), 105-day duck season to comply with Service regulations, which required that the general duck season must be split into two segments if any partial seasons were split. This proposal is based on the presumption that the Service will follow the interim pintail harvest strategy or if the pintail season is reduced, the Service will not require a split in the general duck season. The proposed change would simplify the regulations.

3. Increase the Southern San Joaquin Valley and Balance of State zones duck season length from 99 days (split) to a 100-day continuous season opening on the fourth Saturday in October.

The existing regulation establishes a split (two segments), 99-day duck season to comply with Service regulations, which required that the general duck season must be split into two segments if any partial seasons were split. This proposal is based on the presumption that the Service will follow the interim pintail harvest strategy or if the pintail season is reduced, the Service will not require a split in the general duck season. The proposed change would simplify the regulations.

4. Increase the 60-day partial pintail season to a 100-day (full season) in all zones.

The existing regulation allows a 60-day (may be split into two segments) pintail season. This proposal is based on the presumption that the Service will follow the interim pintail harvest strategy which allows a 100-day season. The proposed change would simplify the regulations and allow more hunting opportunity.

5. Lengthen the goose season from 86 to 100 days in the Southern San Joaquin Valley and Balance of State zones.

The existing regulations establish an 86-day goose season which opens on the first Saturday in November in the Southern San Joaquin Valley and Balance of State zones. The proposed change would open goose season on the fourth

Saturday in October and extending for 100 days. The increase in season length occurs in the early fall, when white-fronted geese are the predominant species of goose in these zones. White-fronted goose populations are above population goals established in the Flyway management plan. The season was lengthened in 2002 from 79 to the current length of 86 to allow for increased hunting opportunity because the population continues to increase.

6. Increase the dark goose daily bag limit from two to three in the Southern San Joaquin Valley and Balance of State zones.

The existing regulation establishes a dark goose daily bag limit of two dark geese per day in the Southern San Joaquin Valley and Balance of State zones. The proposed change would increase the daily bag limit to three dark geese per day. Dark geese are defined as Canada geese, cackling Canada geese, Aleutian Canada geese and white-fronted geese. In these zones, white-fronted geese and Aleutian Canada geese are the predominant species of dark geese present. These two populations are above population goals established for them in Flyway Management Plans. Increases in harvest of other dark geese are expected to be minimal.

7. Increase the season length for Canada geese from 16 to 100 days in the North Coast Special Management Area.

The existing regulation allows a 16-day Canada goose season in the North Coast Special Management Area. The proposed change would increase the season length to 100 days. The increase in season length is intended to increase the harvest of Aleutian Canada geese. Aleutians are now feeding primarily on privately-owned pastures. Private landowners are concerned that unimpeded population growth of Aleutian Canada geese is affecting the amount of grass available for livestock. The Aleutian Canada goose population has grown from about 800 birds in 1976 to nearly 70,000 in 2004. The Aleutian Canada goose was listed as Endangered until 1991 and was removed from the list of Threatened species in 2001. A season length of 5 days was established in 2002. In 2003 the season length was increased to 16 days. The proposed change is intended to minimize depredation and allow more hunting opportunity.

8. Increase the Small Canada goose daily bag limit from one to two but maintain the daily bag limit of one Large Canada goose in the North Coast Special Management Area.

The existing regulation allows the take of one Canada goose in the North Coast Special Management Area. The proposed change would increase the daily bag limit to two Canada geese, only one of which could be a Large Canada goose. The increase in the daily bag limit is intended to increase the harvest of Aleutian Canada geese. The rationale for increasing the harvest of Aleutian Canada geese was provided in number 7 above. Resident Large Canada geese also occur in the North Coast Special Management Area, and a longer season (see number 7 above) and increase in daily bag limit may increase harvest to unacceptable levels, so the daily bag limit for Large Canada geese is proposed to remain at one per day.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section(s) 202 and 355, Fish and Game Code.

Reference: Section(s) 202, 355 and 356, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:  
None.
- (d) Identification of Reports or Documents Supporting Regulation Change:  
2004 Draft Environmental Document Migratory Game Bird Hunting
- (e) Public Discussions of Proposed Regulations Prior to Notice publication:  
  
No public meetings are being held prior to the notice publication. These proposed changes would generally simplify existing hunting regulations and/or provide additional hunting opportunities. Because the affected waterfowl populations are at high levels, most affected constituents would view these as positive regulatory changes.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:
  - 1. Do not modify the existing boundary in the Northeastern Zone.
  - 2. Propose the Northeastern Zone duck season to start from the third Saturday in October extending for 105 days.
  - 3. Propose the Southern San Joaquin Valley and Balance of State zones duck season length to be a split, 100-day season.
  - 4. Propose the pintail season in all zones to be a split, 100-day season.
  - 5. Propose a 93-day season for geese in the Southern San Joaquin Valley and Balance of State zones.
  - 6. Propose the dark goose daily bag limit to be four in the Southern San Joaquin Valley and Balance of State zones.
  - 7. Propose the season length to be 60 days for Canada geese in the North Coast Special Management Area.
  - 8. Propose the Canada goose daily bag limit to be three in the North Coast Special Management Area.
- (b) No Change Alternative:
  - 1. The No Change Alternative would not modify the Northeastern Zone boundary. The current Northeastern Zone boundary does not allow maximum hunting opportunity.
  - 2. The No Change Alternative would continue with a split duck season in the Northeastern Zone. Continuing a split duck season adds complexity to the regulations.

3. The No Change Alternative would continue with a 99-day split duck season in the Southern San Joaquin Valley and Balance of State zones. Continuing the current season length is an unnecessary restriction, does not allow maximum hunting opportunity, and adds complexity to the regulations.
4. The No Change Alternative would continue a 60-day (can be split) partial pintail season in all zones. Continuing a 60-day pintail season does not allow maximum hunting opportunity and adds complexity to the regulations.
5. The No Change Alternative would continue the 86-day goose season in the Southern San Joaquin Valley and Balance of State zones. Continuing the current season length is an unnecessary restriction and does not allow maximum hunting opportunity on white-fronted geese.
6. The No Change Alternative would not allow an increase in the dark goose daily bag limit in the Southern San Joaquin Valley and Balance of State zones. Continuing the current goose daily bag limit is an unnecessary restriction and does not allow maximum hunting opportunity on white-fronted geese.
7. The No Change Alternative would continue a 16-day Canada goose season in the North Coast Special Management Area. The current season length allows continued population growth of Aleutians and would lead to greater depredation complaints on the northwest coast of California in the spring.
8. The No Change Alternative would not allow a daily bag increase of one to two Small Canada geese in the North Coast Special Management Area. Continuing population growth of Aleutians would lead to greater depredation effects on the northwest coast of California in the spring.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternatives considered would be more effective in carrying out the purposes for which the regulation changes are proposed or would be as effective or less burdensome to the affected private persons than the proposed regulation. The "no change" alternative is appropriate if the Flyway Council or Service deny the recommendations.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
  
The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

### **Informative Digest/Policy Statement Overview**

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. In addition to the eight proposals contained herein, the U.S. Fish and Wildlife Service (Service), through the analysis of waterfowl population survey and other data, may also initiate changes in federal regulations which will require changes in existing and proposed State regulations. Changes in federal regulations for season opening and closing dates, modifying zone boundaries, elimination or creation of special management areas, season length, and daily bag limits for migratory birds may occur. All proposed changes to State regulations (excluding Proposal 2) require changes in the federal regulations and also must be approved by the Pacific Flyway Council at their meeting on July 23, 2004. Proposal 2 is consistent with federal regulations as they are currently understood. The Service will consider these and other recommendations at their meeting on July 29, 2004. The Department is anticipating that the Service will follow the pintail interim harvest strategy which allows a one bird daily bag limit throughout the general duck season and that the Service will also allow a 60-day canvasback season. Also, minor editorial changes were made to clarify and simplify the regulations and to comply with existing federal frameworks.

1. Modify the existing boundary in the Northeastern Zone to include Shasta Valley in the Northeastern Zone.
2. Modify the duck season in the Northeastern Zone from a 105-day split (segments) season to a 105-day continuous season.
3. Increase the Southern San Joaquin Valley and Balance of State Zone duck season length from 99 days (split) to a 100-day continuous season opening on the fourth Saturday in October.
4. Increase the 60-day partial pintail season to a 100-day (full season) in all zones.
5. Lengthen the goose season from 86 to 100 days in the Southern San Joaquin Valley and Balance of State zones.
6. Increase the dark goose daily bag limit from two to three in the Southern San Joaquin Valley and Balance of State zones.
7. Increase the season length from 16 to 100 days for Canada geese in the North Coast Special Management Area.
8. Increase the Small Canada goose daily bag limit from one to two but maintain the daily bag limit of one Large Canada goose in the North Coast Special Management Area.